

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MATTHEW VANDERHOOP,
Plaintiff

v.

**WILMINGTON SAVINGS FUND
SOCIETY FSB, D/B/A CHRISTIANA
TRUST, NOT IN ITS INDIVIDUAL
CAPACITY, BUT SOLELY AS
TRUSTEE FOR BCAT-2014-10TT**
Defendant

CIVIL ACTION NO. 1:18-CV-11924-FDS

MOTION TO STRIKE DEFENDANT’S MOTION TO DISMISS

Now comes the Plaintiff, Mr. Vanderhoop, in the above-identified case and ask that this honorable court dismiss Defendant’s Motion to Dismiss as Defendant has failed to comply with a court order. If a defendant fails to comply with the Federal Rules of Civil Procedure or a court order, opposing party may move to dismiss the action.

Despite Defendant’s Certificate of Service, dated, December 11, 2018, the CM/ECF Administrative Procedures for the United States District Court for the District of Massachusetts states: “Although CM/EFC is generally available 24 hours a day for filing, all electronic transmissions of documents **must be completed prior to 6:00 PM**, Eastern Standard (or Daylight Savings) Time, on the date on which it is due, in order to be considered timely filed that day. When a specific time of day deadline is set by court order o stipulation, the electronic filing must be completed that by time.”

On November 13, 2018, this honorable Court order that “Defendant’s response due 12/11/2018.” Defendant filed his Motion to Dismiss at 7:52 P.M. on December 11, 2018, after the 6:00 PM deadline for transmission of documents, and according to the Administrative Procedures of the District Court, Defendant’s Motion to Dismiss is filed on December 12, 2018, not December 11, 2018, and Defendant missed the December 11, 2018, by not filing his documents before the 6:00 PM deadline. The Court allowed Defendant 28 days to file a response, and Defendant’s Motion to Dismiss is untimely. For those reasons, the Court should strike Defendant’s Motion to Dismiss.

WHEREFORE, Mr. Vanderhoop respectfully requests that this Court enter an order striking Defendant’s Motion to Dismiss and grant Plaintiff any such other relief as s just and proper.

December 12, 2018

Respectfully submitted,
MATTHEW VANDERHOP
By his attorney,

“/s/”Deborrah M. Doman

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